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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

capacity must carry a network affiliated station which is closest to the cable system.³ Those systems which have sufficient channel capacity have the discretion to not carry signals which substantially duplicate the programming of another station's signal.⁴

2. WOLE is concerned that the implementation of the new rules will operate to foreclose carriage of WOLE's signal on cable systems in Puerto Rico. WOLE, which operates on Channel 12, is operating under an agreement with the licensee of WAPA-TV, Channel 4, San Juan, whereby WOLE retransmits the signal of WAPA-TV on Channel 12 in Aguadilla and substantial portions of the west and southwest coast of Puerto Rico. Under that agreement, which is in effect until December 31, 1994, WOLE substantially duplicates the signal of WAPA-TV under the definition applied in the Report and Order.⁵ Despite that fact that there are no networks, and consequently no network affiliates,⁶ in Puerto Rico, within the meaning applied in the Report and Order,⁷ the Commission has previously ruled that the agreement between WOLE and WAPA-TV is a "network" agreement within the meaning of § 73.658(c) of the Commission's Rules.⁸ There is another similar agreement in effect between WORA-TV, Channel 5, Mayaguez, and WKAQ, Channel 2, San Juan.⁹

3. These facts mean that WOLE is not entitled to mandatory carriage as the closest network affiliate to any cable system on the island because WAPA-TV does not meet the definition of a network under the Report and Order, despite the fact that the WOLE/WAPA-TV agreement is a "network" agreement. It is also clear that every cable system in Puerto Rico has the discretion to not carry WOLE's signal, assuming all other technical requirements are met with respect to WAPA-TV, because WOLE substantially

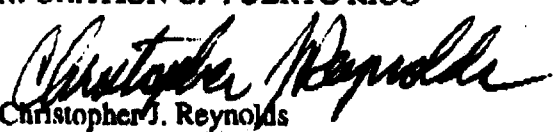
4. As the Commission noted in its Report and Order, "the overriding intent of the 1992 Cable Act was to increase--not reduce--availability of broadcast signals to the public."¹⁰ This commendable intent is hindered in the case of WOLE by implementing rules which deprive WOLE of one important signal carriage option, thus possibly depriving cable subscribers in all of Puerto Rico from receiving the signal of WOLE via the cable system. More significantly, absent carriage of WOLE's signal, cable subscribers in Mayaguez and Aguadilla will be deprived of local news and issue-oriented programming which WOLE originates during times in which WAPA-TV's signal is not being retransmitted by WOLE.

5. Accordingly, it is requested that the Commission reconsider its new rules to the extent of defining WOLE as a network affiliate, given the unique situation in Puerto Rico, or by making some provision which would not automatically disqualify WOLE from mandatory carriage under the new rules.

Respectfully submitted,

WESTERN BROADCASTING
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¹⁰ Report and Order at ¶ 147.